

## **REMARKS**

**[0006]** Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 CFR. § 1.116 as they place the application in better form for appeal, or for resolution on the merits.

**[0007]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-4, 6-9, 11-14, 16-28 and 30-36 are presently pending. Claims 14, 17, 18, and 23 are amended herein. No claims are withdrawn or cancelled herein. No new claims are added herein.

### **Formal Request for an Interview**

**[0008]** If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can discuss this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

**[0009]** Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

### **Allowable Subject Matter**

**[0010]** Applicant would like to thank the Examiner for allowing claims 1-4, 6-9, 11-13, 33 and 34. These claims have not been amended herein, and therefore remain allowable.

### **Claim Amendments**

**[0011]** Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 14, 17, 18, and 23 herein. Applicant amends claims to clarify claimed features and to expedite prosecution. Such amendments are merely intended to highlight the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

## **Substantive Matters**

### **Claim Rejections under § 101**

**[0012]** Claims 23-28, 30-32 and 36 are rejected under 35 U.S.C. § 101. Applicant respectfully traverses this rejection. Furthermore, in light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn.

**[0013]** Independent claim 23 is directed to “computer-readable” media, which has been recognized as belonging to a statutory class as a “Beauregard claim” for quite some time as a product claim, *see* MPEP 2105.01, I. The rejection appears to be based on an interpretation that the claim could cover a signal, which has been deemed non-statutory as not included in one of the four statutory classes, *In re Nuijten*, 500 F.3d 1346 (Fed.

Cir., 2007). Without conceding the propriety of the rejection, Applicant respectfully submits that claim 23, when considered in its entirety and as amended is directed to a statutory product and complies with the strictures of 35 U.S.C. § 101.

**[0014]** If the Examiner maintains the rejection of claims 23-28, 30-32 and 36, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

### **Claim Rejections under § 103**

**[0015]** Claims 14, 16-28, 30-32, 35 and 36 are rejected under 35 U.S.C. § 103. In light of the amendments presented herein and the discussion during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

### **Claims**

**[0016]** Applicant respectfully submits that each of the pending claims, 1-4, 6-9, 11-14, 16-28 and 30-36, are in condition for allowance. Claims 1, 14, and 23 being independent claims. In addition to its own merits, each claim depending from one of claims 1, 14, and 23 is allowable over the cited references for at least the same reasons that its base claim is allowable. Applicant respectfully requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable, and earnestly solicits issuance of the pending application.

## **Conclusion**

**[0017]** All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

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